

United States Court of Appeals
for the
District of Columbia Circuit



**TRANSCRIPT OF
RECORD**

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Court of Appeals, District of Columbia

APRIL TERM, 1903.

No. 1289.

209

No. 9, SPECIAL CALENDAR.

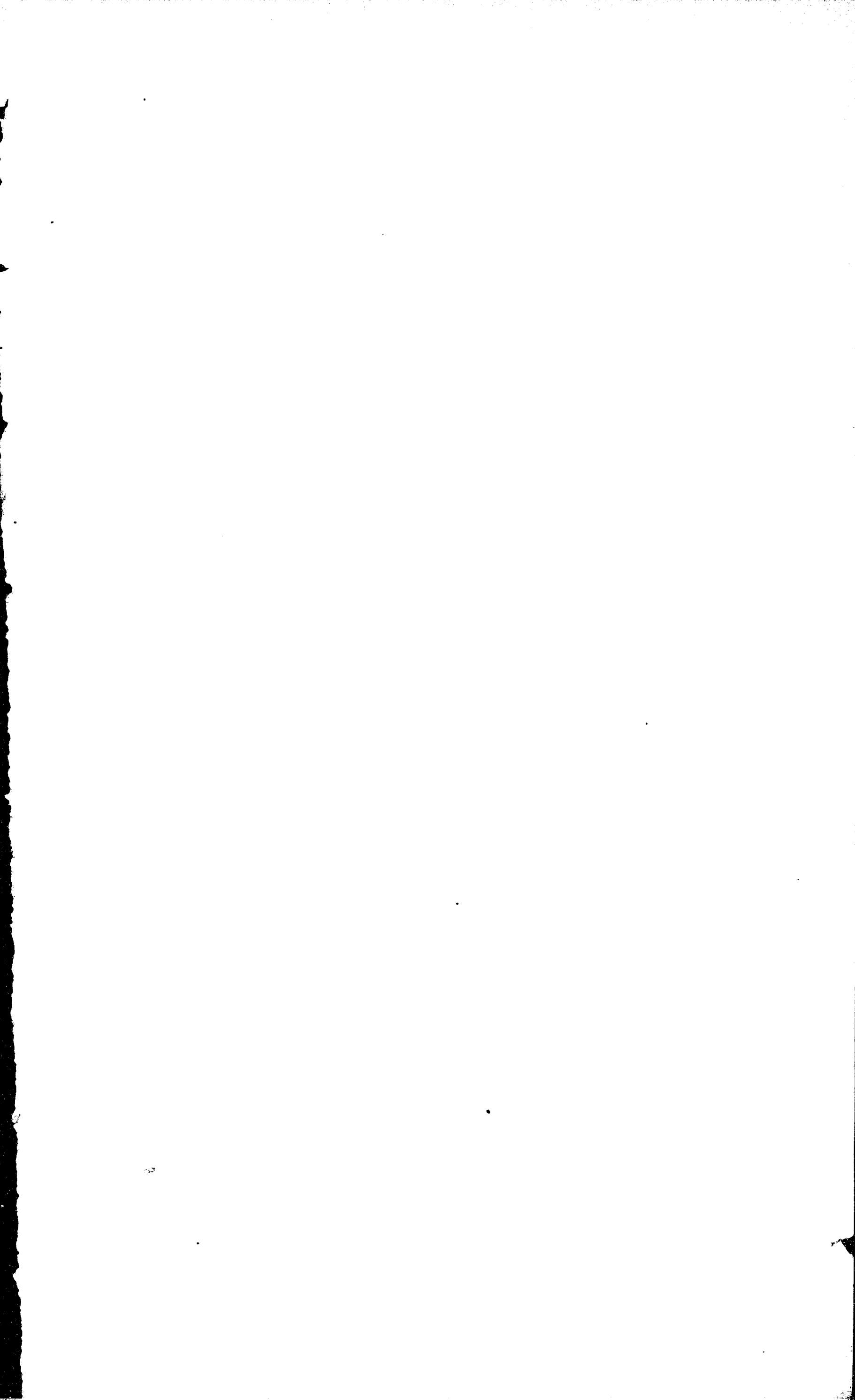
FAIRICK MANN, PLAINTIFF IN ERROR,

vs.

THE DISTRICT OF COLUMBIA

IN ERROR TO THE POLICE COURT OF THE DISTRICT OF COLUMBIA.

FILED MARCH 24, 1903.



COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

APRIL TERM, 1903.

No. 1289.

No. 9, SPECIAL CALENDAR.

PATRICK MANN, PLAINTIFF IN ERROR,

v.s.

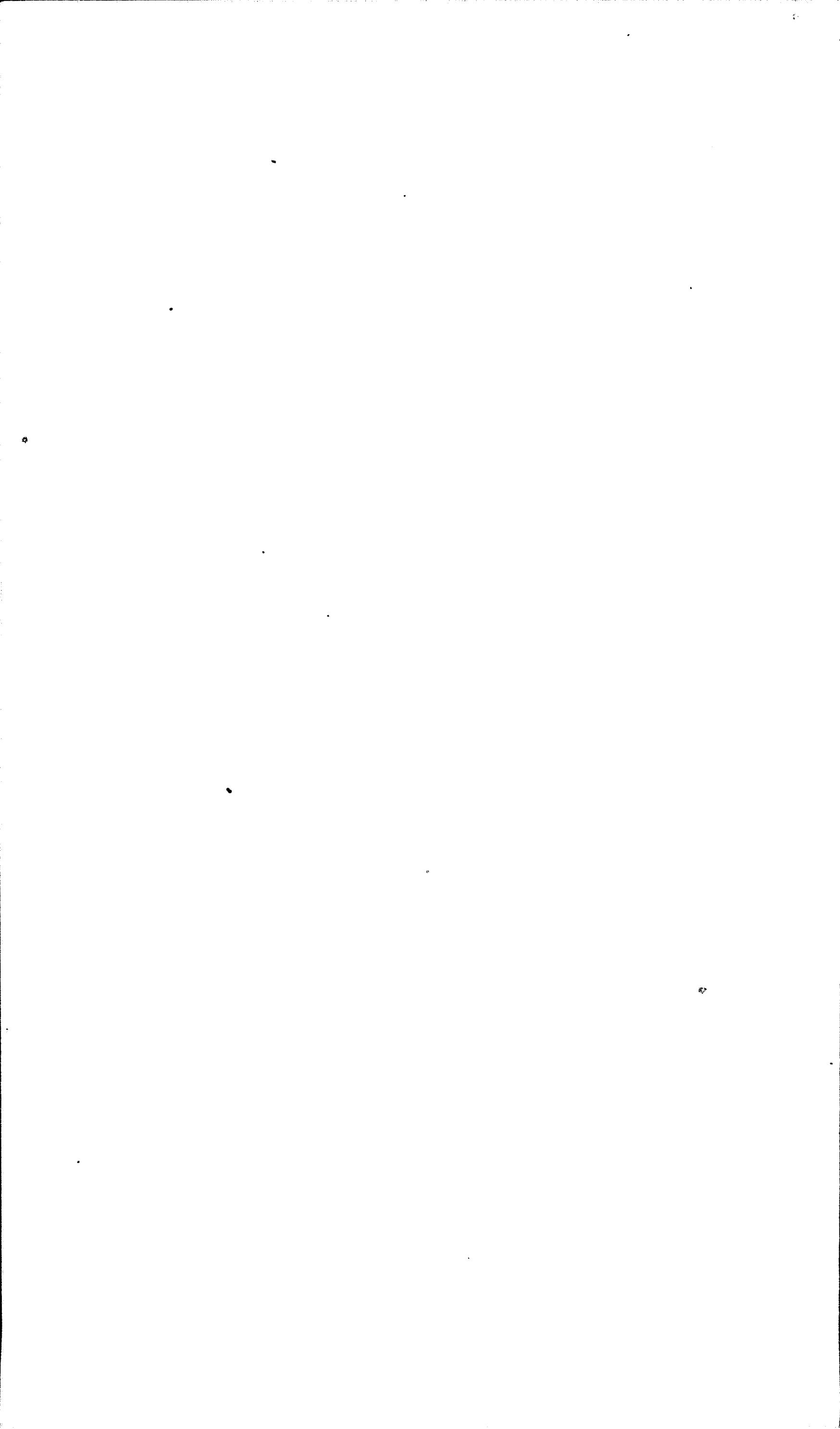
THE DISTRICT OF COLUMBIA.

IN ERROR TO THE POLICE COURT OF THE DISTRICT OF COLUMBIA.

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In the Court of Appeals of the District of Columbia.

PATRICK MANN, Plaintiff in Error, }
vs. } No. 1289.
THE DISTRICT OF COLUMBIA. }

a In the Police Court of the District of Columbia, March Term, 1903.

DISTRICT OF COLUMBIA } No. 231,999. Information for Violation of
vs. } Garbage Regulations.
PATRICK MANN. }

Be it remembered, that in the police court of the District of Columbia, at the city of Washington, in the said District, at the times hereinafter mentioned, the following papers were filed and proceedings had in the above-entitled cause, to wit:

1 In the Police Court of the District of Columbia, January Term, A. D. 1903.

THE DISTRICT OF COLUMBIA, ss :

Andrew B. Duvall, Esq., corporation counsel, by James L. Pugh, Jr., Esq., assistant corporation counsel, who for the District of Columbia prosecutes in this behalf in his proper person, comes here into court and causes the court to be informed and complains that Patrick Mann late of the District of Columbia aforesaid, heretofore on the 20th day of *day of* January, in the year A. D. nineteen hundred and three, in the District of Columbia aforesaid, and in the city of Washington, did then and there convey and transport a certain dead animal, to wit a dead horse through the streets of the city of Washington to wit, Pennsylvania avenue, Seventh street and other streets and across Long bridge to a place in Virginia near the Potomac river about two miles south of said Long bridge, which said place had not been approved by the Commissioners of the District of Columbia as a place for the disposal of dead animals or garbage, the said Patrick Mann not being the contractor with the District of Columbia for the removal and disposal of dead animals, contrary to and in violation of the garbage regulations of the District of Columbia, approved August 23, 1871; of the act of Congress "regulating the sale of intoxicating liquors," approved February 17, 1898, March

3, 1893; of an act of Congress approved July 29, —, and constituting a law of the District of Columbia.

ANDREW B. DUVALL, Esq.,
Corporation Counsel,
 By JAMES L. PUGH,
Assistant Corporation Counsel.

Personally appeared Charles C. Brown this 26th day of January, A. D. 1903 and made oath before me that the facts set forth in the foregoing information are true, and those stated upon information received he believes to be true.

W. H. RUFF,
Deputy Clerk of the Police Court for the District of Columbia.

2 In the Police Court of the District of Columbia, January Term, A. D. 1903.

Second Count.

THE DISTRICT OF COLUMBIA, ss:

Andrew B. Duvall, Esq., corporation counsel, by James L. Pugh, Jr., Esq., assistant corporation counsel, who for the District of Columbia prosecutes in this behalf in his proper person, comes here into court, and causes the court to be informed and complains that Patrick Mann late of the District of Columbia aforesaid, heretofore to wit on the 20th day of January, in the year A. D. nineteen hundred and three, in the District of Columbia aforesaid, and in the city of Washington, did then and there convey and transport a dead animal to wit, a dead horse, said horse having died more than four hours prior to the commencement of such transportation, through the streets of the city of Washington to wit, through Pennsylvania avenue, Seventh street and other streets across the Long bridge to a place in Virginia near the Potomac river about two miles south of the Long bridge, the said Patrick Mann not being the contractor with the District of Columbia for the removal of dead animals, contrary to and in violation of the garbage regulations of the District of Columbia, constituting a law of the District of Columbia.

ANDREW B. DUVALL, Esq.,
Corporation Counsel,
 By JAMES L. PUGH, JR.,
Assistant Corporation Counsel.

Personally appeared Charles C. Brown this 26th day of January, A. D. 1903 and made oath before me that the facts set forth in the foregoing information are true, and those stated upon information received he believes to be true.

(S'g'd) W. H. RUFF,
Deputy Clerk of the Police Court for the District of Columbia.

3 In the Police Court of the District of Columbia.

THE DISTRICT OF COLUMBIA }
vs. } No. 231,999.
PATRICK MANN. }

It is agreed between counsel for the District of Columbia and the defendant that this case may be tried on the following agreed statement of facts so far as the court may deem said facts pertinent, competent and material to the issue:

Statement of Facts.

1. The Police Regulations of the District of Columbia in relation to the removal of garbage and dead animals in force at the time of the occurrences alleged in the information in this cause were and are as follows:—

ARTICLE XIV, SEC. 9. "It is hereby made the duty of the contractor with the District of Columbia for the collection and removal of garbage and dead animals to collect and remove, in accordance with the regulations and contract of said District, all garbage, dead animals, fish and refuse animal and vegetable matter found within the District, to some place to be designated or approved by the Commissioners of the District, and to dispose of the same through a reduction or consumption process, subject to the sanitary inspection and approval of said Commissioners; and each cart or other vehicle

4 used for the purpose of removing garbage shall have the word 'garbage' and the number of the wagon in large white letters on a black ground, plainly painted or attached to each side of the wagon bed, which shall be of metal, water-tight and provided with tight-fitting covers and be approved by the superintendent of street cleaning. All dead animals shall be removed to the place of disposal in covered wagons or other vehicles or conveyances as nearly air-tight as possible, to be approved by the superintendent of street cleaning. And it shall be unlawful for any person to use for the removal of garbage or dead animals any cart, wagon, vehicle or other conveyance no- so approved. No other person or party except the District contractor, his, their, or its agents, shall carry, convey or transport through the streets, alleys, or public places of the said District, any garbrge, dead animals, fish, or refuse animal or vegetable matter and it shall be unlawful for any person to interfere in any manner with the collection and disposal of such materials or dead animals by the District contractor, his, their, or its agents or employees. Provided, that the owner of any dead animal, if the same shall have died upon private premises, may remove the same or cause it to be removed within four hours after it shall have died, otherwise such removal shall be within one hour thereafter, to a place or places to be approved by the Commissioners of the said District, whence it shall be taken and disposed of by the reduction process, subject to the sanitary inspection of the said Commissioners.

All garbage, dead animals, night soil, miscellaneous refuse and ashes must be within the digesting tanks or the furnace, or otherwise in the process of actual disposal, not later than six o'clock a. m. on the day following their receipt by the contractor or other person for such disposal. All such garbage, dead animals and night soil must be completely disposed of within twenty-four hours, and all miscellaneous refuse and ashes within seventy-two hours, after their receipt.

5 The capacity of any plant or scheme established by any contractor or other person must be sufficient to enable all necessary repairs to be made without interfering with the work of disposal."

6 2. The defendant is now and has been for about twenty years, amongst other businesses carried on by him, engaged in the business of collecting dead animals in the District of Columbia, and manufacturing or having them manufactured into fertilizers; that he is fully equipped for the prompt removal of dead animals, having covered wagons as near air-tight as possible, for the purpose, as required by the police regulations of the District.

3. That on the 20th day of January, 1903, the defendant purchased the carcass of a dead horse from the owner thereof for which he gave the sum of one dollar at the stable of one Robinson, numbered 222 C street northwest, in the city of Washington, District of Columbia; that said carcass was worth to the defendant for the purpose to which he put it the sum of about eight dollars; that said horse died on said premises, which are the private premises of the said Robinson; that said horse died about 8.15 o'clock in the morning of the said day and was loaded into the wagon of the defendant for removal not later than half past nine o'clock in the morning of the same day; that the said defendant on said day hauled the said carcass in his wagon along Pennsylvania avenue, Seventh and other streets, in the city of Washington, District of Columbia, and across Long bridge to a place in Virginia near the Potomac river about two miles south of said Long bridge where there is a factory where dead animals are manufactured into fertilizers and soap and other productions; that the said defendant caused said dead animal to be so disposed of at said factory; that the defendant at the time he removed said dead animal was not the public contractor with the District of Columbia for the collection and removal of garbage or dead animals, nor was the dead animal, removed by him as aforesaid, taken to a place of disposal approved by the Commissioners of the District of Columbia; that the said defendant did not, nor did any one else, at any time prior to the removal of said animal, or subsequently, apply to the Commissioners of the District of Columbia to approve said place and manner of disposal; that the process of disposal at said place is a reduction process, but is not of the sanitary kind that is now in general use for such purposes in or near all large cities, and the work of reduction there carried on is not under the sanitary inspection and approval of the said Commissioners, and they have not been requested to give it such inspection and approval.

4. That the Commissioners of the District of Columbia prior to the 11th day of October, 1899, advertised, as required by law, for proposals for the collection, removal and disposal of all garbage and dead animals in the District of Columbia, which advertisement required each bidder to submit with his bid a full description of the scheme of disposal by the reduction or consumption process which he proposed to establish and maintain, the plant, fixtures and means of transportation whereof was to be at the expense of the contractor, and the Washington Fertilizer Company being the lowest bidder therefor the said Commissioners on the 11th day of October, 1899, entered into a contract with it, which contract, amongst other things, provides for the removal by said fertilizer company of all garbage and dead animals, such as are referred to in the foregoing police regulations, produced and found in the District of Columbia for the period of five years from the date of said contract under the terms and conditions set forth in said police regulations and said contract;

that said contract provides that the said fertilizer company shall have all the garbage and dead animals produced and found in the District of Columbia during that period for its own use and benefit, and that the contract price to be paid by the District to said contractor for such service was considerably reduced in consideration of the receipt by it of such garbage and dead animals from what it otherwise would have been; that said fertilizer company is equipped with the necessary wagons, boats, and other means of transportation, and a plant adequate to the removal and disposal of all such garbage and dead animals; that its plant is a sanitary one of the most modern and approved method and system; that it is located in Virginia, and is under the sanitary inspection and control of the Commissioners of the District of Columbia by virtue of the terms of the contract aforesaid, and is so carried on and managed that it emits no offensive or unwholesome odors whatever.

(S'g'd)

(S'g'd)

A. B. DUVALL, *Att'y D. C.*

E. T. THOMAS,

Att'y for Def't.

9 This being all the evidence in the case, counsel for the defendant requested the court to rule as matter of law that section 9 of article XIV of the Police Regulations of the District of Columbia providing that dead animals shall be removed to a place designated by the Commissioners of the said District, and be there disposed of by a reduction or consumption process under the sanitary inspection and approval of said Commissioners, was not applicable to the dead animals, the defendant was charged with removing, but the court refused to so rule; to which refusal and ruling the defendant by his counsel excepted then and there.

And thereupon counsel for the defendant requested the court on the agreed statement of facts, to rule as matter of law that neither the contract between the Commissioners of the District of Columbia with the Washington Fe-tilizer Company for the removal of garbage and dead animals, nor the law, gives the said fe-tilizer company

the right to remove and convert to its own use all dead animals in the District of Columbia to the exclusion of the owner's rights thereto; but the court refused to so rule; to which refusal and rulings the defendant by his counsel, then and there excepted.

And thereupon counsel for the defendant requested the court on the agreed statement of facts of the case to rule that inasmuch as the dead animal in question was taken out of the District of Columbia by the defendant, it was immaterial whether it was taken to a place designated by the Commissioners of said District, or was disposed of by a reduction or consumption process under the sanitary inspection of said Commissioners, but the court refused to so rule; to which refusal and ruling of the court the defendant by his counsel then and there duly excepted.

And thereupon counsel for the defendant requested the court, on the agreed statement of facts of the case to adjudge the defendant not guilty and discharge him, but the court refused to so rule, to which ruling the defendant by his counsel, then and there duly excepted.

10 Each of said exceptions was duly noted upon the minutes of the court before the court announced the judgment in the case, and notice was then given by the defendant that he would apply for a writ of error.

In witness whereof, at the request of the defendant's counsel the presiding justice signed the bill of exceptions this 14th day of March, 1903.

(Signed)

CHARLES F. SCOTT,
Justice Presiding.

11 In the Police Court of the District of Columbia.

DISTRICT OF COLUMBIA }
vs. } No. —.
PATRICK MANN. }

And now comes the defendant, by S. T. Thomas his attorney, and moves the court to set aside its judgment in this case and grant a new trial:

1. Because the evidence is insufficient to support said judgment.
2. On exceptions taken by the defendant to the rulings of the presiding justice during the trial.

(S'g'd)

S. T. THOMAS,
Attorney for the Defendant.

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Transcript of Record.

In the Police Court of the District of Columbia, January Term, 1903.

DISTRICT OF COLUMBIA }
 vs. } No. 231,999. Information for Violation
 PATRICK MANN. } of the Garbage Regulations.

Defendant arraigned Tuesday, March 10, 1903. Plea: Not guilty. Case submitted on agreed statement of facts. Continued to March 14.

March 14.—Exceptions taken to rulings of court on matters of law and notice given by defendant in open court of his intention to apply to a justice of the Court of Appeals of the District of Columbia for a writ of error.

Judgment: Guilty. Sentence: To pay a fine of thirty dollars and in default to be committed to the workhouse for the term of ninety days.

Motion for a new trial filed, argued and overruled.

Recognizance in the sum of one hundred dollars entered into on writ of error to the Court of Appeals, D. C., upon the condition that in the event of the denial of the application for a writ of error the defendant will, within five days next after the expiration of ten days, appear in the police court and abide by and perform its judgment, and that in the event of the granting of such writ of error, the defendant will appear in the Court of Appeals of the District of Columbia and abide by and perform its judgment in the premises. George J. Suefferle, surety.

Bill of exceptions filed, settled and signed.

March 19.—Writ of error received from the Court of Appeals.

13 In the Police Court of the District of Columbia.

UNITED STATES OF AMERICA, } ss :
 District of Columbia, }

I, Joseph Y. Potts, clerk of the police court of the District of Columbia, do hereby certify that the foregoing pages, numbered from 1 to 12 inclusive, to be true copies of originals in cause No. 231,999 wherein The District of Columbia is plaintiff and Patrick Mann defendant, as the same remain upon the files and records of said court.

In testimony whereof I hereunto subscribe my name and affix the seal of said court,—the city of Washington, in said District, this 23d day — March, A. D. 1903.

[Seal Police Court of District of Columbia.]

JOSEPH Y. POTTS,
Clerk Police Court, Dist. of Columbia.

14 UNITED STATES OF AMERICA, ss:

The President of the United States to the Honorable Charles F. Scott, judge of the police court of the District of Columbia, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said police court, before you, between The District of Columbia plaintiff and Patrick Mann defendant, a manifest error hath happened, to the great damage of the said defendant as by his complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Court of Appeals of the District of Columbia, together with this writ, so that you have the same in the said Court of Appeals, at Washington, within 15 days from the date hereof, that the record and proceedings aforesaid being inspected, the said Court of Appeals may cause further to be done therein to correct that error, what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Richard H. Seal Court of Appeals, Alvey, Chief Justice of the said Court of District of Columbia. Appeals, the 19th day of March, in the year of our Lord one thousand nine hundred and three.

ROBERT WILLETT,
Clerk of the Court of Appeals of the District of Columbia.

Allowed by—

M. F. MORRIS,
*Associate Justice of the Court of Appeals
of the District of Columbia.*

Endorsed on cover: District of Columbia police court. No. 1289. Patrick Mann, plaintiff in error, vs. The District of Columbia. Court of Appeals, District of Columbia. Filed Mar. 24, 1903. Robert Willett, clerk.

